



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5  
77 WEST JACKSON BOULEVARD  
CHICAGO, IL 60604-3590

SEP 08 2009

EPA Region 5 Records Ctr.



330969

**MEMORANDUM**

REPLY TO THE ATTENTION OF:  
SE-5J

**SUBJECT:** ENFORCEMENT ACTION MEMORANDUM – Determination of Threat to Public Health or the Environment from the Western Tar Products, Terre Haute, Vigo County, Indiana; (Site Spill ID # B5SS)

**FROM:** Verneta Simon, On-Scene Coordinator *VS*  
Emergency and Enforcement Response Branch II, Response Section III

**THRU:** Linda Nachowicz, Chief *LN*  
Emergency Response Branch II

**TO:** Richard C. Karl, Director  
Superfund Division

**I. PURPOSE**

The purpose of this Memorandum is to document the determination of an imminent and substantial threat to public health and the environment posed by a coal tar seep into the Wabash River near the location of the former Western Tar Products facility ("Site"). This property is located at 2525 Prairieton Road, Terre Haute, Indiana or mile marker 212.5 on the Wabash River, a navigable water of the United States. The Site is owned by CAVU Ops, Inc. (CAVU Ops) and occupied pursuant to a lease agreement by Tangent Rail Corporation. Since 1906, railroad ties have been manufactured at the Site.

On July 7, 2009, U.S. EPA On-Scene Coordinator (OSC) Jeff Crowley, and Indiana Department of Environment Management (IDEM) OSCs Jason Sewell and Bill Myers responded to a report by an anonymous fisherman that a black substance was seeping into the Wabash River. Using an IDEM airboat, OSC Crowley, and IDEM OSCs Sewell and Myers were able to determine that the seep originated from the Site. On July 10, 2009, EPA contacted CAVU Ops. EPA asked CAVU Ops to determine the contents of the black seep and characterize the extent of the impacted area. On Monday, July 13, 2009, CAVU Ops reported that it had observed visual impacts along 400 feet of the riverbank. On July 13, 2009, Cav Ops collected water samples from the river from up and down stream of the visual impacts as well as soil and material samples from along the riverbank. Envision Laboratories Inc analyzed the samples for VOCs, SVOCs, and PCBs. The soil analyses indicate that SVOCs including acenaphthylene, anthracene, benzo(a) anthracene, 2-chloronaphthalene, and chrysene are migrating from the coal tar material into underlying soil. The results of these analyses are contained in the draft work plan which is included in the Administrative Record. On August 5, 2009, CAVU

Ops asked and was given approval to remove surficial material along the riverbank in advance of the execution of an Administrative Settlement Agreement on Consent (ASAOC).

This site is not on the National Priorities List (NPL).

## **II. SITE CONDITIONS AND BACKGROUND**

CERCLIS # N/A

Western Tar Products (now reorganized and called CAVU Ops) has operated at 2525 Prairieton Road, Terre Haute, Indiana since 1906. Since 2001, CAVU Ops has leased the property to Tangent Rail. The draft work plan prepared by CAVU Ops and dated July 22, 2009 proposes the following response actions:

- 1) Removal of primarily surficial impacts occurring from the river's edge to an approximate elevation of twenty feet above the river's edge;
- 2) Removal of overburden and an underlying layer of visually impacted material (approximately 4 feet in thickness).

EPA performed an environmental justice (EJ) analysis. The analysis is contained in Attachment I. In Indiana, the low-income percentage is 29% and the minority percentage is 14. To meet EJ concern criteria, the area within 1 mile of this property must have a population that's twice the state low income percentage and/or twice the state minority percentage. That is, the area must be at least 58% low-income and/or 28% minority. At this Site, the low-income percentage is 50% and minority percentage is 12%, as determined by Arcview. Therefore, EPA has concluded that this Site does not meet the region's EJ criteria based on the demographics identified in the "Region 5 Interim Guidelines for Identifying and Addressing a Potential EJ Case, June 1998."

## **III. THREAT TO PUBLIC HEALTH OR THE ENVIRONMENT, AND STATUTORY AND REGULATORY AUTHORITIES**

Conditions at the Site may pose an imminent and substantial endangerment to public health or welfare or the environment, based upon factors set forth in the National Contingency Plan (NCP), 40 Code of Federal Regulations (CFR) 300.415 (b)(2). These conditions include:

- a) Actual or potential exposure to nearby populations, animals, or the food chain from hazardous substances or pollutants or contaminants;

Coal tar is comprised of, among other substances, volatile and semi-volatile compounds including: acenaphthene, benzene, benzo(a)pyrene, chlorobenzene, 1, 2-dichlorobenzene, 1, 3 - dichlorobenzene, 1, 1-dichloroethane, ethylbenzene, fluoranthene, fluorene, naphthalene, phenanthrene. It may also contain polychlorinated biphenyls.

PCBs and the volatile and semi-volatile compounds listed above are each a “hazardous substance” under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14). Analyses of soil samples collected by CAVU Ops from beneath the tar seeps identified the presence of acenaphthylene (1.39 mg/kg), anthracene (1.48 mg/kg), benzo(a)anthracene (4.16 mg/kg), 2-chloronaphthalene (1.20 mg/kg), and chrysene (2.85 mg/kg). Coal tar is an irritant and causes damage to the liver, kidneys, and spleen of animals.

The Site is immediately adjacent to the Wabash River. In addition to the typical range of aquatic and terrestrial life found along rivers in southern Indiana, the Indiana Bat has been noted in the vicinity of the Site. As a consequence of the existence of the Indiana Bat, CAVU Ops cannot begin excavation of the underlying material until after September 30, 2009, according to the Indiana Department of Natural Resources (IDNR). IDNR promulgated this restriction in order to safeguard the bat’s habitat during the summer months.

On August 10, 2009, CAVU Ops sent an e-mail to Joe Young, a representative of the Indiana Department of Natural Resources (IDNR). CAVU Ops requested permission to clean-up the surface debris on the river bank. It stated that it will request an IDNR permit to excavate within the bounds of the river bank to remove material that lies within the river bank (approximately 20 feet above the water line). Finally, there are public access points along the Wabash River below this Site.

b) Actual or potential contamination of drinking water supplies or sensitive ecosystems;

The riparian area of this property is part of the Wabash River Heritage Corridor. In 1991, the Indiana Legislature designated the river as a heritage corridor and established the Wabash River Heritage Corridor Commission, which is the steward for the nineteen counties in which the Wabash River flows. Besides being habitat for the Indiana Bat, there are also freshwater mussels and other animals that reside in and along the Wabash River.

Since at least 1994, Terre Haute (population: 60,000 people in 2000) has relied upon the Wabash River as a source of its drinking water. Terre Haute’s public water system is managed by Indiana-American Water Company. According to the Indiana-American Water Company, the water source for the Terre Haute Public Water system is upstream of this Site and consists of four vertical wells and a radial collector in the Wabash Valley aquifer, adjacent to the Wabash River, near mile marker 215.

The Indiana-American Company has approximately 24,000 customers in the Terre Haute area. A portion of the well head protection plan is included in the Administrative Record, which shows the various Time-of-Travel (TOT) boundaries, including the 1-year and 5-year TOTs. From these boundaries, it is reasonable to expect that contamination emanating from this Site might eventually affect these wells.

Immediately south of this Site, there are two more entities that use groundwater for drinking water. The first is a mobile home park, which serves 75 people. The second is a federal penitentiary, which serves 1,500.

- c) High levels of hazardous substances or pollutants or contaminants in soils largely at or near the surface that may migrate;

The area where the coal tar is seeping into the Wabash River is located under the area used to store untreated railroad ties. The historical use of this area is currently unknown. The draft work plan prepared by CAVU Ops and dated July 22, 2009, confirms the existence of hazardous substances in soils at or near the surface. EPA has confirmed that these hazardous substances are migrating.

- d) The availability of other appropriate federal or state response mechanisms to respond to the release;

There does not appear to be any other viable mechanism with which to address the Site. In November 1999, Western Tar Products entered the facility in IDEM's Voluntary Remediation Program (VRP) and still remains in their VRP. In VRP, the Site is called Railworks Wood Products (6990902). According to Corey Webb, IDEM's VRP project manager, the information submitted so far from CAVU Ops has been limited to the processing area and the current work proposed in this Memorandum will not affect their participation in IDEM's VRP.

Western Tar Products' successor, CAVU Ops, has yet to characterize the facility. The facility's processing area could be the source of the current seep into the Wabash River. EPA does not yet know all of the sources of the hazardous substances nor whether the coal tar has migrated to locations besides the Wabash River.

#### **IV. ENDANGERMENT DETERMINATION**

Coal tar exposure can occur through inhalation, ingestion, and eye or skin contact. Coal tar is deemed to be an irritant and has caused damage to the liver, kidneys, and spleen in experimental animals. EPA has not documented a case of industrial injury. Sections II and III describe the actual and potential threat of release of hazardous substances from this Site, which, if not addressed by implementing the response action described in this Action Memorandum, may pose an imminent and substantial endangerment to public health, welfare, or the environment. EPA does not know whether there is any contaminated sediment, the presence of which might increase risks associated with the Site. Also, it is unclear whether the migration of coal tar into the river has negatively impacted the sensitive ecosystem/wildlife or the recreational use of the river. A copy of the Inland Sensitivity Atlas that was prepared for this section of the Wabash River in 2000 is available in Attachment II.

## **V. PROPOSED ACTIONS**

Currently, an ASAOC is being negotiated. The ASAOC will require CAVU Ops to, at a minimum, do the following:

- 1) Develop a Work Plan.
- 2) Develop and implement a site health and safety plan.
- 3) Conduct additional sampling to confirm that coal tar has not migrated into the sediment of the Wabash River nor migrated into the soils of the surrounding residential community.
- 4) Collect confirmatory samples according to the approved Work Plan.
- 5) Develop a restoration plan.
- 6) Based upon analytical results or generator knowledge, any material transported and disposed of that is characterized or identified as a hazardous substances, pollutant, waste, or contaminant, shall be disposed of at a RCRA/CERCLA approved disposal facility in accordance with EPA's off-site rule.

The OSC has begun planning for the provisions of post-removal site control, consistent with the provisions of Section 300.415(k) of the NCP. However, the nature of the future response action should eliminate, or if not eliminate, mitigate all exposure threats. The mitigation or elimination of all exposure threats should minimize the need for post-removal site control.

The response actions described in this memorandum directly address actual or threatened releases of hazardous substances, pollutants or contaminants at the Site which may pose an imminent and substantial endangerment to human health and the environment. These response actions do not impose a burden on the affected property disproportionate to the extent to which the property contributes to the conditions being addressed.

### **Applicable or Relevant and Appropriate Requirements (ARARs)**

All applicable or relevant and appropriate requirements (ARARs) will be complied with to the extent practicable. Federal ARARs for this Site include RCRA. A letter will be sent to Corey Webb and Harry Atkinson of IDEM, and Joe Young of IDNR requesting ARARs. Our request for ARARs letter and the responses from IDEM and IDNR will be placed in the Administrative Record.

## **VI. OUTSTANDING POLICY ISSUES**

None.

## **VII. ENFORCEMENT**

For Administrative purposes, information concerning EPA's confidential enforcement strategy is contained in the Enforcement Confidential Addendum.

**VIII. RECOMMENDATION**

This decision document represents the selected removal action for the Western Tar Products Site located at 2525 Prairieton Road, Terre Haute, Indiana, developed in accordance with CERCLA, as amended, and is not inconsistent with the NCP. This decision is based upon the Administrative Record for this site. Conditions at the Site meet the NCP Section 300.415 (b) (2) criteria for a removal action. You may indicate your decision by signing below.

APPROVE:

  
Division Director

9-8-09

Date

DISAPPROVE:

\_\_\_\_\_  
Division Director\_\_\_\_\_  
Date**ATTACHMENTS: Enforcement Confidential Addendum**

1. Environmental Justice Map
2. Excerpt from Inland Sensitivity Atlas – Southern Indiana
3. Index to the Administrative Record

cc: D. Chung, U.S. EPA, 5203-G

M. Chezik, U.S. Department of Interior, w/o Enf. Addendum

H. Atkinson, Indiana Department of Environmental Management (IDEM), w/o Enf.  
Addendum

J. Sewell, IDEM, w/o Enf. Addendum

B. Myers, IDEM, w/o Enf. Addendum

C. Webb, IDEM, w/o Enf. Addendum

J. Young,, Indiana Department of Natural Resources, w/o Enf. Addendum

E. Karecki, U.S. Fish &amp; Wildlife Service, SR-6J

S. Pruitt, U.S. Fish &amp; Wildlife Service

BCC PAGE

(REDACTED 1 PAGE)

NOT RELEVANT TO THE SELECTION OF THE REMOVAL ACTION

**ENFORCEMENT ADDENDUM**

**WESTERN TAR PRODUCTS SITE  
TERRE HAUTE, VIGO COUNTY, INDIANA**

**AUGUST 2009**

**(REDACTED 2 PAGES)**

**ENFORCEMENT CONFIDENTIAL  
NOT SUBJECT TO DISCOVERY**



## ATTACHMENT 3

### U.S. ENVIRONMENTAL PROTECTION AGENCY REMOVAL ACTION

#### ADMINISTRATIVE RECORD FOR WESTERN TAR PRODUCTS SITE TERRE HAUTE, VIGO COUNTY, INDIANA

ORIGINAL  
AUGUST 2009

<u>NO.</u>	<u>DATE</u>	<u>AUTHOR</u>	<u>RECIPIENT</u>	<u>TITLE/DESCRIPTION</u>	<u>PAGES</u>
1	00/00/00	Indiana-American Water Company	U.S. EPA	Figure 4: Potential Contaminant Source Locations and Land Use Map	
2	01/00/02	IDEM	U.S. EPA	Inland Sensitivity Atlas For Southern Indiana - Tile 40	
3	07/22/09	Kerimeda, Environmental, Inc.	U.S. EPA	Wabash River Bank Mitigation Work Plan for the Former Western Tar Facility	
4	08/07/09	U.S. EPA	File	Region 5 Superfund EJ Analysis for the Western Tar Site	
5	08/12/09	U.S. Dept. Of Labor	File	OSHA On-line Occupational Safety and Health Guideline for Naphtha (Coal Tar)	
6	08/13/09	Randall, S., Keramida Environmental, Inc.	Simon, V., U.S. EPA	E-mail Message re: Request to Perform Surface Debris Pick-up at the Wabash River Bank	
7	00/00/00	Simon, V., U.S. EPA	Karl, R., U.S. EPA	Action Memorandum: Determination of Threat To Public Health or the Environment from the Western Tar Products Site (PENDING)	

## Southern Indiana Atlas - Tile 40

### *Sensitive Species\**

Listing	Contact Name	Emergency Phone	Contact Phone
Federal (Indiana)	U.S. Fish and Wildlife Service	None	812-334-4261
State (Indiana)	Indiana DNR Division of Fish and Wildlife	None	317-232-4080

### *Managed Areas*

Icon Number	Name	Category	Managing Agency	Waterbody	Emergency Phone	Contact Phone	Comments
R3410	Prairie Creek Park	Local Park	Vigo County Parks and Recreation	Lost Creek, Wabash River	812-462-3226	812-462-3391	215 Acre Site.
R3411	Spencer Park	Local Park	Terre Haute City Parks Department	Lost Creek, Wabash River	812-462-3226	812-232-2727	9 Acre Site.
R3412	Dobbs (John G.) Memorial Nature Preserve	Local Preserve	Terre Haute City Parks Department	S. Fork Lost Creek, Lost Creek	812-462-3226	812-232-2727	25 Acre Site.
R3413	Fairbanks Park	Local Park	Terre Haute City Parks Department	Wabash River	812-462-3226	812-232-2727	36 Acre Site.
R3415	Voorhees Park	Local Park	Terre Haute City Parks Department	Wabash River	812-462-3226	812-232-2727	12 Acre Site.
S3408	Little Grassy (Grassie) Pond Game Management Area	State Game Area	Indiana DNR, Division of Fish and Wildlife	Maple Avenue Lake, Lost Creek	317-232-4080	317-232-4080	215 Acre Site.

### *Special Designated Areas*

Icon Number	Designated Area Name	Designation Program or Category	Designating Agency	Waterbody	Emergency Phone	Contact Phone	Comments
S2208	Wabash River Heritage Corridor	Wabash River Heritage Corridor	Indiana Department of Natural Resources	Wabash River, Ohio River	317-541-0617	317-232-4020	River Declared Navigable.

### *Oil Storage Facilities*

Icon Number	Name	Operator	Street Address	Waterbody	River Mile	Facility Response Plan	Marine Transfer Facility	Products Handled	Emergency Phone	Contact Phone
#4260	Toney Petroleum, Inc.	Toney Petroleum, Inc.	531 North 3rd Street, Terre Haute	Wabash River		No	No	Gasoline, Diesel Fuel, Motor Oil	800-633-8253, 812-234-3752	812-877-0108

### *Pipelines*

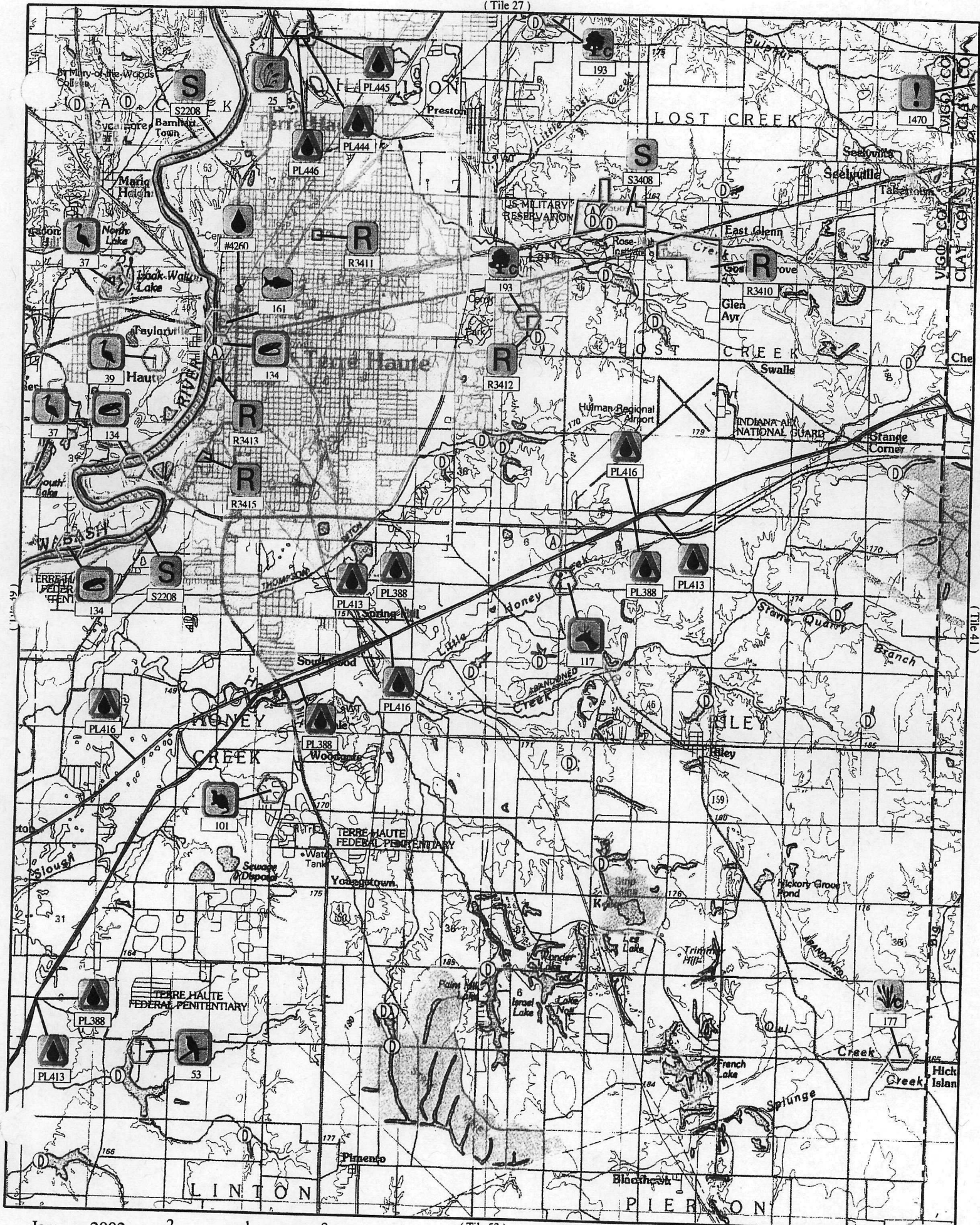
Icon Number	Company Name	Route Name	Number of Pipes in Route	Diameters	Products Carried in Line	Emergency Phone	Contact Phone
PL388	Buckeye Pipe Line Company	101	1	4"	Refined	800-331-4115	800-523-9420

\* 2001 Indiana Natural Heritage Data provided by the Indiana Department of Natural Resources, Division of Fish and Wildlife.

January 2002

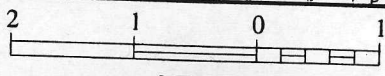
Inland Sensitivity Atlas – Southern Indiana

(Tile 27)

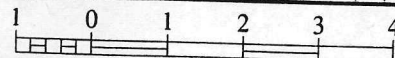


January 2002

Scale 1:100,000



(Tile 53)



Southern Indiana

# Terre Haute, IN



Source of Map: Census 2000 Database/  
ArcView 3.0